

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

NEBRASKA DEPARTMENT
OF INSURANCE

JAN 16 2002

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

PETITIONER,

VS.

MONTGOMERY HOME TITLE, INC.,
MICHAEL P. BELL, AND ELLIOT M.
LISS,

RESPONDENTS.

FILED

CONSENT ORDER

CAUSE NO. A-1437

Jan 15, 2002 ACCT# 8521 \$3,500.00
NO-INVOICE 234687 TRAN# 968063
MONTGOMERY HOME TITLE, INC.
CHECK# 2748

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Christine Neighbors, and Montgomery Home Title, Inc., by and through its president and designated agents, Michael P. Bell and Elliot M. Liss, ("Respondents") mutually and individually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondents pursuant to Neb.Rev.Stat. §44-101.01 and §44-4001, et seq.
2. Montgomery Home Title, Inc., ("MHT") is a licensed title insurance agency doing business in Nebraska under the laws of Nebraska at all times material hereto.
3. Michael P. Bell is a licensed title insurance agent. Respondent Bell is a designated agent for MHT and, as such, has full responsibility for the conduct of all business transactions of the insurance agency within the state pursuant to Neb. Rev. Stat. §44-4014.
4. Elliot M. Liss is a licensed title insurance agent. Respondent Liss is a designated agent for MHT and, as such, has full responsibility for the conduct of all business transactions of the insurance agency within the state pursuant to Neb. Rev. Stat. §44-4014.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a Petition and Notice of Hearing styled State of Nebraska Department of Insurance vs. Montgomery Home Title, Inc., Michael P. Bell, and Elliot M. Liss on September 21, 2001. A copy of such Petition and Notice of Hearing was served upon the Respondents by certified mail at the address of 1300 Piccard Drive, Suite L-105, Rockville, MD 20850.

2. The Petition alleges Respondents violated Neb. Rev. Stat. §44-4028 (1) which provides that the Director may revoke or suspend any person's license . . . if the Director determines the person has "violated any insurance law or any lawful rule, regulation, or order of the director or of a director or commissioner of another state, district, or territory of the United States or any province of Canada." The Petition also alleges that each Respondent violated Neb. Rev. Stat. §44-4028 (11) by not demonstrating trustworthiness and competency to transact business in such a manner as to safeguard the public. The Petition alleges the violations of Neb.Rev. Stat. §44-4028 (1) and (11) are based on the following conduct:

- a. On or about October 6, 2000, Respondents overcharged Curtis and Delilah Gillming \$371.68 during the closing of a real estate transaction. The overcharge is comprised of additional charges for an abstract/title search fee, a title examination fee, and an error in the calculation of the title insurance premium. These overcharges are in violation of the insurer's approved rate filing.
- b. On or about November 2, 2000, Respondents overcharged Cindy and Richard Morlang \$109.00 during the closing of a real estate transaction. The overcharge is based on the Respondents' failure to include a reissuance rate discount of \$109.00. The overcharge is in violation of the insurer's approved rate filing.
- c. On or about October 25, 1999, Respondents overcharged Mark and Kristin Shriner \$495.00 during the closing of a real estate transaction. The overcharge is comprised of additional charges for an abstract/title search fee, a title examination, and an error in the calculation of the title insurance premium. These overcharges are in violation of the insurer's approved rate filing.
- d. On or about November 4, 1999, Respondents overcharged Miriam and Alfred Way \$470.00 during the closing of a real estate transaction. The overcharge is comprised of additional charges for an abstract/title search fee and a title

examination fee. These overcharges are in violation of the insurer's approved rate filing.

- e. On or about March 9, 2000, Respondents overcharged Richard and Cindy Morlang \$420.00 during the closing of a real estate transaction. The overcharge is comprised of additional charges for an abstract/title search fee and a title examination fee. The total for these overcharges was \$470.00. However, Respondents failed to charge \$50.00 for endorsements related to this transaction bringing the overcharge to \$420.00. These overcharges and Respondents' failure to charge for the endorsements at the time of the transaction are in violation of the insurer's approved rate filing.
- f. On or about September 22, 2000, Respondents overcharged Adolfo Cardenas \$470.00 during the closing of a real estate transaction. The overcharge is comprised of additional charges for an abstract/title search fee and a title examination fee. These overcharges are in violation of the insurer's approved rate filing.
- g. On or about September 29, 2000, Respondents overcharged Gary and Katherine Lindley \$470.00 during the closing of a real estate transaction. The overcharge is comprised of additional charges for an abstract/title search fee and a title examination fee. These overcharges are in violation of the insurer's approved rate filing.

3. Respondents were informed of their right to a public hearing. Respondents waive that right and enters into this Consent Order freely and voluntarily. Respondents understand and acknowledge that by waiving the right to a public hearing, Respondents also waive the right to confront witnesses, the production of evidence, and judicial review.

4. Respondents neither admit nor deny the allegations contained in the Petition above of this Consent Order.

5. The parties acknowledge that this matter was first brought to the attention of the Respondents with regard to the October 6, 2000, Gillming transaction referred to in 2a, above by the local agent used by MHT in the transaction after the transaction had been completed. On October 13, 2000, MHT refunded said overcharges to the Gillmings and immediately thereafter, MHT commenced an internal inquiry of all Nebraska closings to determine if additional overcharges had occurred.

6. On October 24, 2000, the Department by letter inquired regarding the Gillming transaction and in addition, requested information regarding all closings conducted by MHT in the State of Nebraska. Thereafter, Respondents cooperated with and provided information to the Department as to all Nebraska closings, and presented to the Department the amounts of suggested refunds to be made by MHT to the respective consumers referred to in paragraphs 2b to 2g above, and on April 27, 2001 MHT refunded said amounts to said respective consumers.

CONCLUSIONS OF LAW

Respondents' conduct as alleged above in Paragraph 2 above constitutes a violation of Neb. Rev. Stat. §44-4028 (1) and (11). However, during the course of this investigation, Respondents fully cooperated with the Department's requests for information, calculated and presented to the Department the amounts of suggested refunds to be made by MHT, and paid said refunds to Nebraska consumers on April 27, 2001. In addition, MHT educated agency staff on the all-inclusive nature of the Nebraska rate filing.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondents, Montgomery Home Title, Inc., Michael P. Bell, and Elliot M. Liss, that Respondents agree to pay an administrative fine of \$3,500.00. It is further ordered that if full payment of the administrative fine is not received on or before 30 days from the date the Director of Insurance signs this Consent Order, grounds shall exist for a hearing to be called wherein all Respondents shall show cause as to why their Nebraska insurance agent and agency licenses should not be revoked. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondents or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party executed this document by subscribing his, her or its signature below.

State of Nebraska Department of Insurance

By: Christina M. Neighbors
Counsel
Date: 1/16/02

Montgomery Home Title, Inc.

By: MPB
President

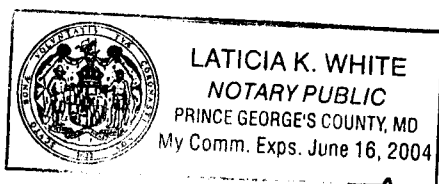
MPB
Michael P. Bell

EL
Elliot M. Liss

Robert J. Becker
Robert J. Becker
Respondents' Counsel

State of Maryland)
County of Prince George's) ss.

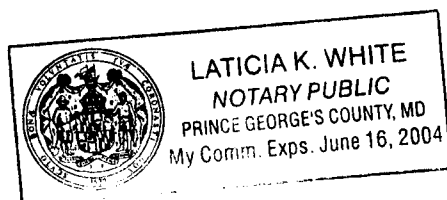
On this 31st day of December 2001, Michael P. Bell, President of Montgomery Home Title, Inc., personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his/her voluntary act and deed.



L. White
Notary Public

State of Maryland)
County of Prince George's) ss.

On this 31st day of December 2001, Michael P. Bell personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.

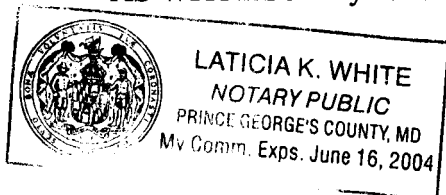


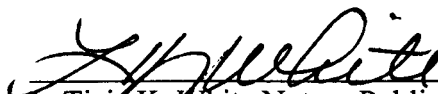
L. White
Notary Public

**State of Maryland,
Prince George's County Ss:**

On this 31st day of December 2001, Elliot M. Liss personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.

AS WITNESS: my hand and notarial seal




Laticia K. White Notary Public

My Commission Expires: 06-16-2004

CERTIFICATION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Montgomery Home Title Insurance, Inc., Michael P. Bell and Elliot M Liss, Cause No: A-1437.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

January 16, 2002
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to Respondents' legal counsel, Robert J. Becker, Stalnaker, Becker, Buresh, Gleason & Farnham, P.C., 8805 Indian Hills Drive, Suite 325, P. O. Box 24268, Omaha, NE 68124-0268 on this 16 day of January, 2002.

